

EXHIBIT B

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration)
Hearing of:) CDC Number C-78307
)
FRANK MCCORMICK)
)
-----)

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

NOVEMBER 14, 2005

4:10 P.M.

PANEL PRESENT:

Ms. Margarita Perez, Presiding Commissioner
Ms. Sandra Bryson, Commissioner
Mr. Jay Nielsen, Deputy Commissioner

OTHERS PRESENT:

Mr. Frank McCormick, Inmate
Ms. Pat Fox, Attorney for Inmate
Correctional Officers Unidentified

CORRECTIONS TO THE DECISION HAVE BEEN MADE

-----	No	See Review of Hearing
-----	Yes	Transcript Memorandum

Stacy Wegner, Peters Shorthand Reporting

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1 P R O C E E D I N G S

2 **PRESIDING COMMISSIONER PEREZ:** Good

3 afternoon, sir.

4 **INMATE MCCORMICK:** Good afternoon.

5 **PRESIDING COMMISSIONER PEREZ:** This is a
6 subsequent parole consideration hearing for
7 Frank McCormick, M-C-C-O-R-M-I-C-K, CDC C-78307.
8 Today's date is November 14th, 2005. We are
9 located at the Correctional Training Facility in
10 Soledad. The time is 4:10 p.m. Sir, according
11 to the record you were received by the
12 department on December 22, 1983 -- excuse me,
13 December 22nd, 1983. Your life term began on
14 September 25th, 1984 out of the county of
15 Monterey for the offense of murder second
16 degree, Penal Code Section 187. Case number
17 MCR4898, count one, for which you were
18 subsequently assessed a term of 17 years to life
19 with a minimum eligible parole date of May 14th,
20 1993. Sir, the record reflects that you were
21 convicted of another -- of a non-controlling
22 offense, that would be assault with a deadly
23 weapon to run concurrent with the life term.
24 Penal Code Section 12022.5 out of Monterey, same
25 case number, count two. Sir, this hearing is
26 being tape recorded, and for the purposes of
27 voice identification, we're going to go around

1 the room and ask everyone to identify
2 themselves, stating their first name, last name,
3 spelling their last name. When we get to you,
4 sir, I'd like you to provide us with your CDC
5 number. I will start with myself and go to my
6 left. My name is Margarita Perez, P-E-R-E-Z,
7 Commissioner with the Board of Parole Hearings.

8 **COMMISSIONER BRYSON:** Sandra Bryson, B-R-Y-
9 S-O-N, Commissioner with Board of Parole
10 Hearings.

11 **DEPUTY COMMISSIONER NIELSEN:** Jay Nielsen,
12 N-I-E-L-S-E-N, Deputy Commissioner, Board of
13 Parole Hearings.

14 **ATTORNEY FOX:** Pat Fox, F-O-X, attorney for
15 Mr. McCormick.

16 **INMATE MCCORMICK:** Frank A. McCormick, M-C-
17 C-O-R-M-I-C-K, C-78307.

18 **PRESIDING COMMISSIONER PEREZ:** Thank you,
19 sir. I do note for the record that we have two
20 correctional officers in the room. They will
21 not be participating in today's hearing. They
22 are here for the purposes of security. Sir,
23 before we begin there's a white document taped
24 to the table in front of you. Would you read
25 that out loud for me please.

26 **INMATE MCCORMICK:**

27 ADA American's with Disabilities

1 Act. The American's with
2 Disabilities Act, ADA, is a law to
3 help people with disabilities.
4 Disabilities are problems that make
5 it harder for some people to see,
6 hear, breathe, talk, walk, learn,
7 think, work, or take care of
8 themselves than it is for others.
9 Nobody can be kept out of public
10 places or activities because of a
11 disability. If you have a
12 disability, you have the right to
13 ask for help to get ready for the
14 BPT hearing, get to the hearing,
15 talk, read forms and papers and
16 understand the hearing process.
17 BPT will look at what you ask for
18 to make sure that you a disability
19 that is covered by the ADA and that
20 you have asked for the right kind
21 of help. If you do not get help,
22 or if you don't think you got the
23 kind of help you need, ask for a
24 BPT 1074 grievance form. You can
25 also get help to fill it out.

26 **PRESIDING COMMISSIONER PEREZ:** Thank you,
27 sir. You didn't realize you were going to be

1 given a reading exam when you came in here
2 today.

3 **INMATE MCCORMICK:** Not really.

4 **PRESIDING COMMISSIONER PEREZ:** Sir, did you
5 understand what that meant?

6 **INMATE MCCORMICK:** Yes, I did.

7 **PRESIDING COMMISSIONER PEREZ:** Can you tell
8 me what that means in your own words, please?

9 **INMATE MCCORMICK:** Well, if I got any
10 problem that are covered by ADA, that I can get
11 any kind of help that I need.

12 **PRESIDING COMMISSIONER PEREZ:** Exactly.

13 **INMATE MCCORMICK:** Right.

14 **PRESIDING COMMISSIONER PEREZ:** Exactly,
15 sir. And I do note for the record on December
16 17th, 2004, you signed a BPT 1073, which is the
17 request for a reasonable accommodation form in
18 which you indicated you have no disabilities.
19 Is that correct, sir?

20 **INMATE MCCORMICK:** That's correct.

21 **PRESIDING COMMISSIONER PEREZ:** And I notice
22 you are wearing glasses?

23 **INMATE MCCORMICK:** They're seeing glasses.

24 **PRESIDING COMMISSIONER PEREZ:** They're for
25 close and distance?

26 **INMATE MCCORMICK:** Right.

27 **PRESIDING COMMISSIONER PEREZ:** Okay. Very

1 good. Sir, are you hearing-impaired?

2 INMATE MCCORMICK: No.

3 PRESIDING COMMISSIONER PEREZ: Are you
4 currently on any medication?

5 INMATE MCCORMICK: Just for diabetes and
6 hypertension.

7 PRESIDING COMMISSIONER PEREZ: Will the
8 side effects of those medications make it
9 difficult for you to participate in today's
10 hearing?

11 INMATE MCCORMICK: No, it shouldn't.

12 PRESIDING COMMISSIONER PEREZ: Are you
13 currently or have you ever been on psychotropic
14 medications?

15 INMATE MCCORMICK: No.

16 PRESIDING COMMISSIONER PEREZ: Are you
17 familiar with the CCCMS or EOP programs?

18 INMATE MCCORMICK: Yes, I am.

19 PRESIDING COMMISSIONER PEREZ: Can you tell
20 me what they are, sir?

21 INMATE MCCORMICK: Well, the only thing I
22 know about them is that they got people running
23 around here looking way crazy.

24 PRESIDING COMMISSIONER PEREZ: Have you
25 ever been a participant in any of those
26 programs?

27 INMATE MCCORMICK: No. I just had to deal

1 with them when I was a clerk over at North.

2 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
3 good, sir. Sir, are you a high school graduate?

4 **INMATE MCCORMICK:** Yes, I am.

5 **PRESIDING COMMISSIONER PEREZ:** And what
6 year did you graduate?

7 **INMATE MCCORMICK:** I graduated in '69.

8 **PRESIDING COMMISSIONER PEREZ:** And how did
9 you do in school?

10 **INMATE MCCORMICK:** I did B average.

11 **PRESIDING COMMISSIONER PEREZ:** B average.

12 Do you have any college in your background?

13 **INMATE MCCORMICK:** I've got a year and a
14 half.

15 **PRESIDING COMMISSIONER PEREZ:** And what
16 courses did you take in college?

17 **INMATE MCCORMICK:** Psych 101, 102, history,
18 and I took architectural drawing.

19 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
20 good, sir. Counsel, have all ADA issues been
21 addressed to the best of your knowledge?

22 **ATTORNEY FOX:** Yes, they have, as to this
23 hearing.

24 **PRESIDING COMMISSIONER PEREZ:** Okay.
25 Great. Sir, this hearing is being conducted
26 pursuant to Penal Code Section 3041 and 3042 and
27 the rules and regulations of the Board of Parole

1 Hearings governing parole consideration hearings
2 for life inmates. If during today's hearing
3 we're talking a little fast, or if you have
4 difficulty understanding something that I'm
5 trying to convey, or any of us are trying to
6 convey, I want you to let us know right away.
7 At that point we'll stop, we'll back up, we'll
8 slow down, we'll make sure that you understand
9 before we proceed. Do you understand sir?

10 **INMATE MCCORMICK:** Yes.

11 **PRESIDING COMMISSIONER PEREZ:** Can I get
12 one of those packets. Thank you. Sir, the
13 purpose of today's hearing is to -- once again,
14 is to consider your suitability for parole. In
15 doing so, we will consider the number and nature
16 of the crimes you were committed for, your prior
17 criminal and social history, as well as your
18 behavior and programming since your arrival
19 within the California Department of Corrections
20 and Rehabilitation. The Commissioner and myself
21 have had the opportunity to review your record,
22 and during today's hearing, sir, you will have
23 the opportunity to correct or clarify that
24 record. Okay.

25 **INMATE MCCORMICK:** All right.

26 **PRESIDING COMMISSIONER PEREZ:** We will
27 reach a decision today and inform you of that

1 decision. If we do find you suitable for
2 parole, we will explain the length of your
3 confinement to you. Okay.

4 **INMATE MCCORMICK:** All right.

5 **PRESIDING COMMISSIONER PEREZ:** Before we
6 recess for deliberations your attorney and you
7 will have the opportunity to make a closing
8 statement. Your statement should be limited to
9 why you feel you are suitable for parole. We
10 will then recess, clear the room, and
11 deliberate. Once we've concluded our
12 deliberations, we will resume the hearing and
13 announce our decision. Sir, the California Code
14 of Regulations states that regardless of time
15 served, a life inmate shall be found unsuitable
16 for and denied parole, if in the opinion of the
17 Panel, the inmate would pose an unreasonable
18 risk of danger to society. Do you understand
19 that, sir?

20 **INMATE MCCORMICK:** Yes.

21 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
22 good, sir. Sir, during today's hearing you have
23 certain rights. You have a right to a timely
24 notice of this hearing. You have the right to
25 present relevant documents, and you have the
26 right to review your Central File. I do note
27 for the record that on December 17th, 2004, you

1 were provided the opportunity to review your
2 Central File. Is that correct, sir?

3 **INMATE MCCORMICK:** Yes, it is.

4 **PRESIDING COMMISSIONER PEREZ:** Did you, in
5 fact, review it?

6 **INMATE MCCORMICK:** Yes.

7 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
8 good. Counsel, have all your client's rights
9 been met to the best of your knowledge?

10 **ATTORNEY FOX:** Well, I have one question.
11 Let's see, my understanding is that there was an
12 investigation that was requested by the Panel on
13 his last hearing.

14 **DEPUTY COMMISSIONER NIELSEN:** I was just
15 searching for that information, and I did not
16 find the investigation completed.

17 **ATTORNEY FOX:** All right.

18 **DEPUTY COMMISSIONER NIELSEN:** This was
19 requested -- the investigation establishes a
20 threat to family members' safety if inmate
21 McCormick is granted parole. Also please
22 request police reports for the life offense, and
23 I went over to the file of boxes. I did not
24 find this investigation completed.

25 **ATTORNEY FOX:** What I saw regarding that
26 was that the first communication took place in
27 September, this year, and the last document I

1 saw was indicated the 4th of October of this
2 year, and that I think that was communication
3 between the BPH and their investigation staff.
4 Construction of having read what is in the file
5 is that the local law enforcement's concern was
6 that the family members retaliation against Mr.
7 McCormick, not any threat by Mr. McCormick to
8 the family, not withstanding a letter in the
9 file from the victim's mother, so I'm not sure
10 if it would be fair to go forward with that
11 status still hanging open.

12 **PRESIDING COMMISSIONER PEREZ:** Let me ask
13 you a question. How is the -- this
14 investigation relevant to today's hearing?

15 **ATTORNEY FOX:** It's relevant in that it
16 could be a factor the Panel considers in denying
17 parole, simply because law enforcement says we
18 don't want him out here. We're afraid there
19 will be more criminal activity related to him,
20 not committed by him, but related to him. So I
21 don't know, is my answer.

22 **PRESIDING COMMISSIONER PEREZ:** That concern
23 would not be -- I don't see how that issue plays
24 into whether or not Mr. McCormick is suitable
25 for parole. We are here to establish whether or
26 not he is suitable for parole. If there is
27 concern by someone else that there might be

1 criminal activity or some harm to him if he's
2 granted parole, I don't see how that plays into
3 whether or not this Panel determines whether or
4 not he's suitable for parole or not.

5 **ATTORNEY FOX:** All right.

6 **PRESIDING COMMISSIONER PEREZ:** Maybe you
7 can clarify that for me. Quite frankly, based
8 on my understanding, and perhaps I'm not
9 understanding it correctly, I'm not sure that
10 would be fair to Mr. McCormick. Maybe I'm
11 missing something.

12 **ATTORNEY FOX:** My concern is there's this
13 open investigation that has not been resolved.

14 **PRESIDING COMMISSIONER PEREZ:** But is it
15 relevant to this decision?

16 **ATTORNEY FOX:** I would say so.

17 **PRESIDING COMMISSIONER PEREZ:** Whether or
18 not he is suitable for parole?

19 **ATTORNEY FOX:** Because it was important to
20 the Panel last time.

21 **PRESIDING COMMISSIONER PEREZ:** Okay.

22 **ATTORNEY FOX:** So it --

23 **PRESIDING COMMISSIONER PEREZ:** Mr. Nielsen.

24 **DEPUTY COMMISSIONER NIELSEN:** I would only
25 -- if the opposition of law enforcement is
26 predicated singularly on the assumption that he
27 is a threat to family "members" or Mr.

1 McCormick, then I have stuff to talk about it.

2 **PRESIDING COMMISSIONER PEREZ:** No, I don't

3 --

4 **DEPUTY COMMISSIONER NIELSEN:** Now, that's
5 not the way I read it.

6 **PRESIDING COMMISSIONER PEREZ:** Let me ask
7 you this. This particular request for
8 investigation says "see attached letters." Is
9 it letters from Mr. McCormick, which alleged to
10 be threatening other individuals? What do those
11 documents contain? I don't see them in my
12 packet.

13 **ATTORNEY FOX:** They could be -- perhaps be
14 in the confidential part of the file --

15 **DEPUTY COMMISSIONER NIELSEN:** No.

16 **ATTORNEY FOX:** -- which I don't have access
17 to.

18 **DEPUTY COMMISSIONER NIELSEN:** All we have
19 is, no -- excuse me.

20 **ATTORNEY FOX:** So apologize, I don't know.

21 **DEPUTY COMMISSIONER NIELSEN:** I will double
22 check, but --

23 **PRESIDING COMMISSIONER PEREZ:** Mr.
24 McCormick, can you shed any light on this
25 discussion?

26 **ATTORNEY FOX:** What I have is a letter from
27 the Seaside Police Department, which should be

1 in the file, dated March 18th, 2004.

2 **PRESIDING COMMISSIONER PEREZ:** I have no
3 such letter in my file.

4 **DEPUTY COMMISSIONER NIELSEN:** There's one
5 in the Central File.

6 **PRESIDING COMMISSIONER PEREZ:** Let me --
7 let the chair take a look at the Central File.

8 **PRESIDING COMMISSIONER PEREZ:** Let's go off
9 record for a little while. Actually, let me
10 have Mr. McCormick step out for a moment. Okay.

11 **PRESIDING COMMISSIONER PEREZ:** We are back
12 on record. Based on a review of the Central
13 File and the letter from the Seaside Police
14 Department, it does not appear that there is any
15 information or evidence in that particular
16 document which would indicate that -- it appears
17 to be speculation on the part of the Seaside
18 Police Department based on information that they
19 have in regards to this particular case. And
20 after reviewing that particular document, I
21 don't see how it has any relevancy to Mr.
22 McCormick's suitability for parole. We're here
23 to establish whether or not he is suitable for
24 parole. There is nothing in that particular
25 document that is adverse to Mr. McCormick, and
26 as such, we will proceed forth with this
27 hearing. Mr. Nielsen?

1 **DEPUTY COMMISSIONER NIELSEN:** I would
2 concur with that evaluation. Do not review --
3 view that but as speculation that we the Board
4 would not weight in anything. The opposition
5 can stand on itself. That specific reason,
6 therefore, would not -- nor would I construe the
7 investigation, as we've discussed it off the
8 record, as adverse to your client in any event.

9 **PRESIDING COMMISSIONER PEREZ:** I agree.
10 Okay.

11 **ATTORNEY FOX:** Thank you.

12 **PRESIDING COMMISSIONER PEREZ:** Thank you.
13 Counsel, have all your client's rights been met
14 to the best of your knowledge?

15 **ATTORNEY FOX:** Yes, as to this hearing.

16 **PRESIDING COMMISSIONER PEREZ:** Very good,
17 thank you. Sir, you have an additional right,
18 and that is the right to be heard by an
19 impartial Panel. Do you have any objections to
20 today's Panel?

21 **INMATE MCCORMICK:** No.

22 **PRESIDING COMMISSIONER PEREZ:** Counsel, do
23 you have any objection to today's Panel?

24 **ATTORNEY FOX:** No, I do not.

25 **PRESIDING COMMISSIONER PEREZ:** Okay. Thank
26 you. Sir, you will receive a copy of our
27 written tentative decision today. That decision

1 becomes affective within 120 days. In the
2 future you will receive a copy of the decision,
3 as well as a copy of today's transcript. Okay?

4 **INMATE MCCORMICK:** Yes.

5 **PRESIDING COMMISSIONER PEREZ:** The Board
6 has eliminated its appeals process. So what
7 that means in today's hearing is, if you
8 disagree with anything that occurs during
9 today's hearing, you can go directly to the
10 courts with your complaint. Okay.

11 **INMATE MCCORMICK:** All right.

12 **PRESIDING COMMISSIONER PEREZ:** Sir, during
13 today's hearing you are not required to discuss
14 the offense, nor are you required to admit to
15 the offense. However, it's important for you to
16 understand that this Panel does accept true the
17 findings of the Court. We are not here to retry
18 your case. We are here simply to determine
19 whether or not you are suitable for parole.
20 Okay.

21 **INMATE MCCORMICK:** All right.

22 **PRESIDING COMMISSIONER PEREZ:** Commissioner
23 Nielsen, is there confidential information and
24 will we be utilizing it?

25 **DEPUTY COMMISSIONER NIELSEN:** There is
26 confidential information related to the crime
27 partner, but it will not be relevant to today's

1 proceeding.

2 **PRESIDING COMMISSIONER PEREZ:** Thank you.

3 Sir, I have passed a checklist marked Exhibit
4 One to your counsel to ensure that we are all
5 operating off the same documents, and at this
6 time I would ask her to verify the accuracy of
7 the document.

8 **ATTORNEY FOX:** Yes, and I've made one
9 little change reflecting that I did receive the
10 addendum.

11 **PRESIDING COMMISSIONER PEREZ:** Very good.
12 And we received a copy of that as well. Thank
13 you.

14 **ATTORNEY FOX:** Thank you.

15 **PRESIDING COMMISSIONER PEREZ:** Counsel, do
16 you have any additional documents to submit to
17 this Panel today?

18 **ATTORNEY FOX:** Yes. We have some letters
19 to offer regarding parole plans. Okay. We have
20 four letters.

21 **PRESIDING COMMISSIONER PEREZ:** Okay.

22 **ATTORNEY FOX:** Thank you.

23 **PRESIDING COMMISSIONER PEREZ:** Thank you.
24 Counsel, do you have any preliminary objections?

25 **ATTORNEY FOX:** No. I just one regarding
26 some documents that were just handed to me this
27 afternoon, and let's see, someone -- a laudatory

1 chrono, which I will not object to, but there is
2 a letter dated November 11th that was submitted
3 by the District Attorney's office, and we object
4 to that under the 10 day rule.

5 **PRESIDING COMMISSIONER PEREZ:** You're
6 objection is granted.

7 **ATTORNEY FOX:** Thank you.

8 **PRESIDING COMMISSIONER PEREZ:** Any other
9 objections counsel?

10 **ATTORNEY FOX:** No. I think that is enough.

11 **PRESIDING COMMISSIONER PEREZ:** Will your
12 client be speaking with us?

13 **ATTORNEY FOX:** Yes.

14 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
15 good. Before we begin, I need to swear you in.
16 Do you solemnly swear or affirm that the
17 testimony you are about to give at this hearing
18 will be the truth, the whole truth, and nothing
19 but the truth?

20 **INMATE MCCORMICK:** Yes.

21 **PRESIDING COMMISSIONER PEREZ:** Thank you,
22 sir. Sir, I'd like to start out by
23 incorporating into the record specific
24 information as it relates to the commitment
25 offense. I will read into the record the
26 summary of the crime as outlined on the April
27 2005 counselor's report prepared by correctional

1 counselor one M Rubio, R-U-B-I-O, and the record
2 states that.

3 The murder victim Stephen Edwards
4 was killed by McCormick in the
5 parking lot of the Seaside Club on
6 August 8th, 1983, at approximately
7 11:00 p.m. The cause of death was
8 a gunshot wound to the heart. An
9 investigation leading up led police
10 to information indicating that
11 Frank McCormick and Alfred Johnson
12 Jr. went to the Seaside parking
13 lot. Johnson approached the
14 passenger side of the auto occupied
15 by Stephen Edwards and Alvin
16 Brooks. McCormick approached the
17 driver's side. A verbal dispute
18 erupted between Johnson and
19 Edwards. McCormick pulled out a
20 handgun, which he pointed at
21 Brooks. The dispute between
22 Edwards and Johnson grew heated, a
23 shot was fired, and Edwards was
24 struck with a bullet from
25 McCormick's weapon. McCormick and
26 Johnson fled the scene in an auto
27 later traced to McCormick's

1 residence.

2 This information was obtained on Page Two
3 of the Probation Officer's Report. Sir, did you
4 commit in offense?

5 **INMATE MCCORMICK:** Yes, I did.

6 **PRESIDING COMMISSIONER PEREZ:** Can you
7 explain to me the circumstances -- I did read
8 your version of this, and I'm having difficulty
9 understanding the relationship between yourself,
10 your crime partner, and the two individuals.

11 **INMATE MCCORMICK:** Well, Johnson was my
12 cousin's fiancé.

13 **PRESIDING COMMISSIONER PEREZ:** Okay.

14 **INMATE MCCORMICK:** All right. Brooks, I
15 used to go with his sister back in sixth grade.
16 That was my girlfriend, and I hadn't seen them
17 in years.

18 **PRESIDING COMMISSIONER PEREZ:** Okay.

19 **INMATE MCCORMICK:** Because I moved out of
20 the area. As far as Mr. Edwards, just in
21 passing. That's the only thing I knew about
22 him.

23 **PRESIDING COMMISSIONER PEREZ:** Okay. Can
24 you tell me what happened on this date?

25 **INMATE MCCORMICK:** Well, I found out later
26 that him and Johnson had had an argument a few
27 days before this.

1 **PRESIDING COMMISSIONER PEREZ:** Okay.

2 **INMATE MCCORMICK:** So when we went down to
3 the club, Bub asked me to watch his back while
4 he went to talk to him and squash the whole
5 situation. When I get over there, he's got a
6 knife, and Alfred takes the knife from him.

7 **PRESIDING COMMISSIONER PEREZ:** Who's got a
8 knife?

9 **INMATE MCCORMICK:** Edwards.

10 **PRESIDING COMMISSIONER PEREZ:** Edwards.
11 Okay.

12 **INMATE MCCORMICK:** Yeah. Then he goes
13 under the seats, and says, "I'll blow both you
14 MFs away."

15 **PRESIDING COMMISSIONER PEREZ:** So you went
16 from the club to the car?

17 **INMATE MCCORMICK:** Right. But we never got
18 in the club. We were parked right in front of
19 the door.

20 **PRESIDING COMMISSIONER PEREZ:** Okay. So
21 you were just in front of the club. Okay. And
22 then what happened?

23 **INMATE MCCORMICK:** Well, Bub went across --
24 that's what I call Johnson, that's his nickname,
25 Bubba. He went across the parking lot, which is
26 about 10 feet from where we were parked at.

27 **PRESIDING COMMISSIONER PEREZ:** Uh-huh.

1 **INMATE MCCORMICK:** To talk too Steve. When
2 we gets there, you know, they start hassling
3 between the doors, so I go over and I take
4 Brooks out of the car, tell him to get out of
5 the car, tell him to get of the way. Leave it
6 alone, right. That's when he goes under the
7 seat, Johnson --

8 **PRESIDING COMMISSIONER PEREZ:** Edwards?

9 **INMATE MCCORMICK:** Edwards.

10 **PRESIDING COMMISSIONER PEREZ:** And says,
11 "I'll blow both you mother fuckers away," and --

12 **PRESIDING COMMISSIONER PEREZ:** Then what
13 happened?

14 **INMATE MCCORMICK:** That's when I shot him.

15 **PRESIDING COMMISSIONER PEREZ:** Okay. Why
16 did you have a weapon, sir?

17 **INMATE MCCORMICK:** Just bad habit. I
18 always carried one.

19 **PRESIDING COMMISSIONER PEREZ:** Where did
20 you get a weapon?

21 **INMATE MCCORMICK:** I bought it from Hogans
22 Department, not department store, but gun shop
23 up in Walnut Creek.

24 **PRESIDING COMMISSIONER PEREZ:** Was the
25 weapon registered?

26 **INMATE MCCORMICK:** Yes.

27 **PRESIDING COMMISSIONER PEREZ:** Why did you

1 in a habit of carrying a weapon?

2 **INMATE MCCORMICK:** Well, I grew up in the
3 Bay Area.

4 **PRESIDING COMMISSIONER PEREZ:** So everybody
5 in the Bay Area carries a weapon, sir?

6 **INMATE MCCORMICK:** Pretty much, at that
7 time, yes. You could be going to the grocery
8 store and end up a victim.

9 **PRESIDING COMMISSIONER PEREZ:** Did you have
10 a concealed weapon's permit?

11 **INMATE MCCORMICK:** No, I didn't.

12 **PRESIDING COMMISSIONER PEREZ:** Okay. So
13 you said Edwards pulled out a weapon?

14 **INMATE MCCORMICK:** He was reaching out of
15 the seat, pulling something out. I never saw
16 exactly what it was.

17 **PRESIDING COMMISSIONER PEREZ:** So we don't
18 know if he pulled --

19 **INMATE MCCORMICK:** No, we don't.

20 **PRESIDING COMMISSIONER PEREZ:** -- a hot dog
21 or a gun --

22 **INMATE MCCORMICK:** A gun.

23 **PRESIDING COMMISSIONER PEREZ:** -- out from
24 under that seat?

25 **INMATE MCCORMICK:** No.

26 **PRESIDING COMMISSIONER PEREZ:** Okay. So
27 then when he did that, then you pulled out your

1 loaded weapon and you pointed and you shot and
2 killed him?

3 **INMATE MCCORMICK:** Right.

4 **PRESIDING COMMISSIONER PEREZ:** Okay. How
5 long did you know this victim?

6 **INMATE MCCORMICK:** I didn't.

7 **PRESIDING COMMISSIONER PEREZ:** You didn't.

8 **INMATE MCCORMICK:** Just in passing.

9 **PRESIDING COMMISSIONER PEREZ:** Just in
10 passing. Was that the first time you met him,
11 or you'd met him before in passing?

12 **INMATE MCCORMICK:** You know, I knew him as
13 Goody, as they used to call him. I didn't
14 associate with him.

15 **PRESIDING COMMISSIONER PEREZ:** Did you
16 associate with Brooks?

17 **INMATE MCCORMICK:** Like I said, I hadn't
18 seen him since he was a little kid when I used
19 to go with his sister.

20 **PRESIDING COMMISSIONER PEREZ:** Okay. But
21 did you have any kind of relationship with him?

22 **INMATE MCCORMICK:** No.

23 **PRESIDING COMMISSIONER PEREZ:** Other than
24 you used to see his sister?

25 **INMATE MCCORMICK:** No.

26 **PRESIDING COMMISSIONER PEREZ:** Okay. How
27 do you feel about this crime today, sir?

1 **INMATE MCCORMICK:** I feel screwed up about
2 it.

3 **PRESIDING COMMISSIONER PEREZ:** How's that?

4 **INMATE MCCORMICK:** What I did, I had no
5 right to do. And hindsight is 20/20. At that
6 time I felt threatened and I felt that my
7 partner was threatened, and the situation now
8 that I'm thinking about it, I have no right to
9 do none of this. I shouldn't of been carrying a
10 gun. I shouldn't of even been at the club that
11 night, to be honest with you.

12 **PRESIDING COMMISSIONER PEREZ:** Uh-huh.

13 **INMATE MCCORMICK:** And I really had no
14 right to shoot the man.

15 **PRESIDING COMMISSIONER PEREZ:** Were you
16 under the influence of alcohol or drugs at the
17 time of the offense?

18 **INMATE MCCORMICK:** I had been drinking.

19 **PRESIDING COMMISSIONER PEREZ:** How much had
20 you drank prior to the offense and much --
21 during what time period?

22 **INMATE MCCORMICK:** It was quite a bit, but
23 not -- not -- I wasn't sloppy drunk, or I wasn't
24 falling down or nothing like that. I was in
25 control of my faculties pretty much, so --

26 **PRESIDING COMMISSIONER PEREZ:** Okay. And
27 you indicated you felt threatened. What caused

1 you feel threatened?

2 **INMATE MCCORMICK:** Well, when a man tells
3 you -- you already got a knife, and he goes
4 under the seat and he's telling you he's going
5 to blow you away, you feel threatened.

6 **PRESIDING COMMISSIONER PEREZ:** What
7 distance were you from him at the time that you
8 committed the offense?

9 **INMATE MCCORMICK:** I was on the driver's
10 side of the car.

11 **PRESIDING COMMISSIONER PEREZ:** How many
12 feet would that be?

13 **INMATE MCCORMICK:** That wouldn't be no more
14 than 4 feet at the most.

15 **PRESIDING COMMISSIONER PEREZ:** Okay.
16 Looking back, what options did you have, sir?

17 **INMATE MCCORMICK:** I could of just walked
18 away.

19 **PRESIDING COMMISSIONER PEREZ:** What else?

20 **INMATE MCCORMICK:** Not even went over
21 there.

22 **PRESIDING COMMISSIONER PEREZ:** What else?

23 **INMATE MCCORMICK:** Like I said, not even
24 been down there that night.

25 **PRESIDING COMMISSIONER PEREZ:** Or carrying
26 a weapon.

27 **INMATE MCCORMICK:** Or that.

1 **PRESIDING COMMISSIONER PEREZ:** Okay. How -
2 - is there anything else you'd like to add in
3 regards to the commitment offense?

4 **INMATE MCCORMICK:** No more than I'm sorry
5 that it ever happened. That's about it.

6 **PRESIDING COMMISSIONER PEREZ:** Did you ever
7 apologize to the family of the victim?

8 **INMATE MCCORMICK:** No. They know, I've
9 sent words to them to the two brothers, you
10 know, but -- as a matter of fact, I talked to
11 one, and it was no problem.

12 **PRESIDING COMMISSIONER PEREZ:** When did you
13 talk to one?

14 **INMATE MCCORMICK:** That was about 14 years
15 ago.

16 **PRESIDING COMMISSIONER PEREZ:** Okay. How
17 did you get in touch with him?

18 **INMATE MCCORMICK:** He was here.

19 **PRESIDING COMMISSIONER PEREZ:** He was
20 incarcerated here?

21 **INMATE MCCORMICK:** Yeah.

22 **PRESIDING COMMISSIONER PEREZ:** You were on
23 the same yard with him?

24 **INMATE MCCORMICK:** I was in the hole when
25 he came.

26 **PRESIDING COMMISSIONER PEREZ:** Uh-huh.

27 **INMATE MCCORMICK:** And then we came out to

1 the yard, and I saw him a couple times before
2 they transferred him, as well as Brooks. Brooks
3 was over at North with me.

4 **PRESIDING COMMISSIONER PEREZ:** Both of
5 them?

6 **INMATE MCCORMICK:** Yeah.

7 **PRESIDING COMMISSIONER PEREZ:** And you
8 apologized the them, or did you have a
9 discussion in regards to --

10 **INMATE MCCORMICK:** I didn't get a chance to
11 talk to Brooks. He went to south before he
12 (indiscernible).

13 **PRESIDING COMMISSIONER PEREZ:** What about
14 the other?

15 **INMATE MCCORMICK:** The other brother, and I
16 haven't said anything.

17 **PRESIDING COMMISSIONER PEREZ:** Uh-huh,
18 okay.

19 **INMATE MCCORMICK:** All I ever talked to was
20 Tiger.

21 **COMMISSIONER BRYSON:** With who?

22 **INMATE MCCORMICK:** Tiger.

23 **PRESIDING COMMISSIONER PEREZ:** Okay.
24 Anything else regarding the commitment offense,
25 sir?

26 **INMATE MCCORMICK:** No.

27 **PRESIDING COMMISSIONER PEREZ:** Now you were

1 about 32 at the time of the offense; is that
2 right?

3 INMATE MCCORMICK: 31.

4 PRESIDING COMMISSIONER PEREZ: And you're
5 about -- 31?

6 INMATE MCCORMICK: Yeah.

7 PRESIDING COMMISSIONER PEREZ: And you're
8 about 53, 54?

9 INMATE MCCORMICK: 54.

10 PRESIDING COMMISSIONER PEREZ: Okay.

11 INMATE MCCORMICK: 55 in March.

12 PRESIDING COMMISSIONER PEREZ: 55 in March,
13 okay. The record reflects that you have no
14 juvenile record. Is that correct, sir?

15 INMATE MCCORMICK: Correct.

16 PRESIDING COMMISSIONER PEREZ: And in terms
17 of adult convictions, the record reflects that
18 you were convicted of gambling, and that was in
19 1977, and you were sentenced to one-year
20 probation and fined \$130. Is that right, sir?

21 INMATE MCCORMICK: No. I don't know where
22 that came from, but I have a printout. Wait a
23 minute.

24 ATTORNEY FOX: What kind of a printout?

25 INMATE MCCORMICK: I thought I had it in
26 here.

27 ATTORNEY FOX: He's showing me from the

1 State of California Department of Justice Bureau
2 of Identification.

3 **PRESIDING COMMISSIONER PEREZ:** And I did
4 note that. I did note that it was not on his
5 rap sheet. And I thought if that was
6 information that you provided to the counselor
7 or to the probation officer. Do you have any
8 idea where that information came from because I
9 was unable to find any other reference, other
10 than the counselor's report?

11 **INMATE MCCORMICK:** The only thing I
12 received from them was a paper, and we supposed
13 to get that straight in the sentencing hearing.

14 **PRESIDING COMMISSIONER PEREZ:** Okay.

15 **INMATE MCCORMICK:** Because they also had me
16 down as buying a pistol in 1954.

17 **PRESIDING COMMISSIONER PEREZ:** Okay. You
18 may want to -- if you're not granted parole
19 today, sir, you may want to sit down with your
20 counselor and go through your Central File in
21 order to demonstrate one way or another that
22 there's nothing to support that so that can be
23 removed from your file.

24 **INMATE MCCORMICK:** Okay.

25 **PRESIDING COMMISSIONER PEREZ:** The record
26 does reflect that in 1973 you were convicted of
27 a misdemeanor Penal Code 415. What would be

1 that, sir?

2 **INMATE MCCORMICK:** Disturbing the peace.

3 **PRESIDING COMMISSIONER PEREZ:** Disturbing
4 the peace. And can you tell me the
5 circumstances of that, sir?

6 **INMATE MCCORMICK:** It was my birthday
7 party.

8 **PRESIDING COMMISSIONER PEREZ:** Okay.

9 **INMATE MCCORMICK:** We was having a party
10 for my birthday and --

11 **PRESIDING COMMISSIONER PEREZ:** Somebody
12 called law enforcement?

13 **INMATE MCCORMICK:** A guy came by and threw
14 rocks through the window because his girlfriend
15 was in the house. She was with somebody else.

16 **PRESIDING COMMISSIONER PEREZ:** And then?

17 **INMATE MCCORMICK:** And I went out and we
18 got into a fight.

19 **PRESIDING COMMISSIONER PEREZ:** Okay. And
20 you were arrested and subsequently convicted of
21 disturbing the peace?

22 **INMATE MCCORMICK:** Right. I plead guilty
23 of disturbing the peace.

24 **PRESIDING COMMISSIONER PEREZ:** Okay. Is
25 there anything else that you'd like to add to
26 correct or clarify the record regarding your
27 criminal history?

1 **INMATE MCCORMICK:** That's it.

2 **PRESIDING COMMISSIONER PEREZ:** So you have
3 a pretty clean criminal history for the most
4 part, with the exception of that one conviction,
5 up until you were 31.

6 **INMATE MCCORMICK:** Uh-huh.

7 **PRESIDING COMMISSIONER PEREZ:** Okay. In
8 terms of the personal factors, sir, the record
9 does reflect that you are a only child, and
10 correct me if I'm wrong, because there are
11 references that you've been married twice, but
12 it appears that you've married three times. Is
13 that correct?

14 **INMATE MCCORMICK:** Yes.

15 **PRESIDING COMMISSIONER PEREZ:** Three times.
16 You've been married three time and you have four
17 children?

18 **INMATE MCCORMICK:** No.

19 **PRESIDING COMMISSIONER PEREZ:** How many
20 children do you have?

21 **INMATE MCCORMICK:** I have seven children.

22 **PRESIDING COMMISSIONER PEREZ:** You have
23 seven children?

24 **INMATE MCCORMICK:** And I got four adopted
25 children.

26 **PRESIDING COMMISSIONER PEREZ:** So you have
27 three biological and four adopted?

1 **INMATE MCCORMICK:** Uh-huh, six -- I've got
2 two by Patricia.

3 **PRESIDING COMMISSIONER PEREZ:** Okay. How
4 many total biological?

5 **INMATE MCCORMICK:** Six.

6 **PRESIDING COMMISSIONER PEREZ:** Okay. Six
7 biological.

8 **INMATE MCCORMICK:** Uh-huh.

9 **PRESIDING COMMISSIONER PEREZ:** And then
10 four adopted?

11 **INMATE MCCORMICK:** Right.

12 **PRESIDING COMMISSIONER PEREZ:** And when did
13 you adopt these children?

14 **INMATE MCCORMICK:** Over the years. One of
15 them was about -- the last one was about eight
16 years ago.

17 **PRESIDING COMMISSIONER PEREZ:** Eight years
18 ago? Were you married eight years ago?

19 **INMATE MCCORMICK:** No. It was 10 years ago
20 that I was married to her mother.

21 **PRESIDING COMMISSIONER PEREZ:** Okay.

22 **INMATE MCCORMICK:** No. It was longer than
23 that because we got divorced in '96.

24 **PRESIDING COMMISSIONER PEREZ:** Okay. So
25 you have three divorces, six biological and four
26 adopted?

27 **INMATE MCCORMICK:** Uh-huh.

1 **PRESIDING COMMISSIONER PEREZ:** And
2 currently not married? Is that correct?

3 **INMATE MCCORMICK:** Right.

4 **PRESIDING COMMISSIONER PEREZ:** Okay. Do
5 you keep in touch with your children?

6 **INMATE MCCORMICK:** Yes, I do.

7 **PRESIDING COMMISSIONER PEREZ:** How are your
8 children doing, sir?

9 **INMATE MCCORMICK:** They're doing good,
10 except for one.

11 **PRESIDING COMMISSIONER PEREZ:** What ages?

12 **INMATE MCCORMICK:** Well, the youngest one
13 is 27 now.

14 **PRESIDING COMMISSIONER PEREZ:** Okay.

15 **INMATE MCCORMICK:** The oldest is 38.

16 **PRESIDING COMMISSIONER PEREZ:** And you say
17 they're all doing well. They're all adults
18 doing well?

19 **INMATE MCCORMICK:** Except for Michelle.

20 **PRESIDING COMMISSIONER PEREZ:** And what's
21 the matter with Michelle?

22 **INMATE MCCORMICK:** She's got diabetes and
23 her eyesight is going and her kidneys are
24 failing. She's on dialysis and what not.

25 **PRESIDING COMMISSIONER PEREZ:** She's pretty
26 young. How old is she, sir?

27 **INMATE MCCORMICK:** She's 33.

1 **PRESIDING COMMISSIONER PEREZ:** That's
2 pretty young.

3 **INMATE MCCORMICK:** Yeah.

4 **PRESIDING COMMISSIONER PEREZ:** That's
5 pretty young.

6 **INMATE MCCORMICK:** She was born with it.

7 **PRESIDING COMMISSIONER PEREZ:** You keep in
8 touch with all of your children though?

9 **INMATE MCCORMICK:** Yes.

10 **PRESIDING COMMISSIONER PEREZ:** Do you have
11 any siblings?

12 **INMATE MCCORMICK:** No, I don't.

13 **PRESIDING COMMISSIONER PEREZ:** Oh, that's
14 right. You're an only child. You don't have
15 any siblings. You don't have any half siblings
16 or step siblings?

17 **INMATE MCCORMICK:** Just some kids that my
18 father adopted. They're like my brothers.

19 **PRESIDING COMMISSIONER PEREZ:** I see.

20 **INMATE MCCORMICK:** He raised them.

21 **PRESIDING COMMISSIONER PEREZ:** Do you keep
22 in touch with them?

23 **INMATE MCCORMICK:** Yeah.

24 **PRESIDING COMMISSIONER PEREZ:** Okay. The
25 record does reflect that you were in the army
26 from 1981 up until the commitment offense?

27 **INMATE MCCORMICK:** Uh-huh.

1 **PRESIDING COMMISSIONER PEREZ:** What was
2 your MOS?

3 **INMATE MCCORMICK:** My MOS was 13 bang bang.

4 **PRESIDING COMMISSIONER PEREZ:** Which is?

5 **INMATE MCCORMICK:** Artillery.

6 **PRESIDING COMMISSIONER PEREZ:** Artillery.

7 And that was your MOS throughout your entire
8 service in the army?

9 **INMATE MCCORMICK:** It was that and special
10 weapons.

11 **PRESIDING COMMISSIONER PEREZ:** Special
12 weapons. So you were in the service for two
13 years?

14 **INMATE MCCORMICK:** Right.

15 **PRESIDING COMMISSIONER PEREZ:** '81 to '83
16 up until you -- your discharge. How about your
17 parents, still alive today?

18 **INMATE MCCORMICK:** No. They're both dead.

19 **PRESIDING COMMISSIONER PEREZ:** Your mom
20 died in 2003? Is that right?

21 **INMATE MCCORMICK:** Yeah.

22 **PRESIDING COMMISSIONER PEREZ:** How was your
23 relationship with your parents when you were
24 growing up?

25 **INMATE MCCORMICK:** Good.

26 **PRESIDING COMMISSIONER PEREZ:** Very good?

27 **INMATE MCCORMICK:** Uh-huh.

1 **PRESIDING COMMISSIONER PEREZ:** Is there any
2 domestic violence in the home?

3 **INMATE MCCORMICK:** No.

4 **PRESIDING COMMISSIONER PEREZ:** Do you
5 believe it was a nurturing, nice, solid?

6 **INMATE MCCORMICK:** It worked for me.

7 **PRESIDING COMMISSIONER PEREZ:** It worked
8 for you?

9 **INMATE MCCORMICK:** Yeah.

10 **PRESIDING COMMISSIONER PEREZ:** Okay. Does
11 that mean yes?

12 **INMATE MCCORMICK:** Yeah.

13 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
14 good, sir. The record also reflects that you
15 have skills in cement finishing, warehousing and
16 truck driving?

17 **INMATE MCCORMICK:** Right.

18 **PRESIDING COMMISSIONER PEREZ:** Okay. And
19 that prior to entering the service, you worked
20 for a building maintenance company?

21 **INMATE MCCORMICK:** I owned it.

22 **PRESIDING COMMISSIONER PEREZ:** You owned
23 it?

24 **INMATE MCCORMICK:** Yeah.

25 **PRESIDING COMMISSIONER PEREZ:** You started
26 the company yourself?

27 **INMATE MCCORMICK:** My father and I did.

1 **PRESIDING COMMISSIONER PEREZ:** Your father
2 and you did. And then what happened?

3 **INMATE MCCORMICK:** I went into the service.

4 **PRESIDING COMMISSIONER PEREZ:** And then
5 your dad took over the business?

6 **INMATE MCCORMICK:** He's still running it,
7 until he died.

8 **PRESIDING COMMISSIONER PEREZ:** Until he
9 died. When did he pass?

10 **INMATE MCCORMICK:** He died in '85.

11 **PRESIDING COMMISSIONER PEREZ:** Okay. And
12 who has the business now?

13 **INMATE MCCORMICK:** It was sold by my
14 stepmother.

15 **PRESIDING COMMISSIONER PEREZ:** Okay. Is
16 there anything else you'd like to add regarding
17 your personal factors?

18 **INMATE MCCORMICK:** I also got two trades
19 since I been here, too.

20 **PRESIDING COMMISSIONER PEREZ:** Okay. And
21 Commissioner Nielsen will discuss that with you.
22 Okay. Anything else regarding your personal
23 factors?

24 **INMATE MCCORMICK:** No. That's about it.

25 **PRESIDING COMMISSIONER PEREZ:** Okay. In
26 terms of your parole plans, sir, I'm a little
27 confused. The record reflects -- and I'm

1 looking at the April 2004 counselor's report,
2 which indicates that it is your plan to live
3 with your ex-wife Patricia McCormick?

4 **INMATE MCCORMICK:** Uh-huh.

5 **PRESIDING COMMISSIONER PEREZ:** There is a
6 letter to that effect in your file?

7 **INMATE MCCORMICK:** Right.

8 **PRESIDING COMMISSIONER PEREZ:** There's also
9 a letter from your fiancé, who's indicated the
10 exact same thing, sir?

11 **INMATE MCCORMICK:** No.

12 **PRESIDING COMMISSIONER PEREZ:** What is your
13 plan?

14 **INMATE MCCORMICK:** She is not your fiancé.

15 **PRESIDING COMMISSIONER PEREZ:** Why does she
16 write a letter saying that she's your fiancé and
17 upon your release to parole you can live with
18 her, and we also have a letter from your ex-wife
19 wife saying the exact same thing.

20 **INMATE MCCORMICK:** This is what she figures
21 she can help to get me out. Now, you know, two
22 of her kids are the ones that I adopted, and I
23 had plans at one time to go back there and marry
24 her, but too difficult.

25 **PRESIDING COMMISSIONER PEREZ:** Now, who is
26 she now?

27 **INMATE MCCORMICK:** She's just a friend now.

1 **PRESIDING COMMISSIONER PEREZ:** And does she
2 know this?

3 **INMATE MCCORMICK:** Yes.

4 **PRESIDING COMMISSIONER PEREZ:** Does she
5 know this?

6 **INMATE MCCORMICK:** She should.

7 **PRESIDING COMMISSIONER PEREZ:** Okay. So
8 knows she's no longer your fiancé?

9 **INMATE MCCORMICK:** Right.

10 **PRESIDING COMMISSIONER PEREZ:** And you have
11 no plan to marry her?

12 **INMATE MCCORMICK:** She wrote that letter
13 because of what Pat had said, and her and Pat
14 did not get along.

15 **PRESIDING COMMISSIONER PEREZ:** Your ex-
16 wife?

17 **INMATE MCCORMICK:** Right. So when I told
18 her -- after my mother had died, me and her had
19 a falling out.

20 **PRESIDING COMMISSIONER PEREZ:** You and your
21 fiancé?

22 **INMATE MCCORMICK:** Right.

23 **PRESIDING COMMISSIONER PEREZ:** Ex-fiancé.

24 **INMATE MCCORMICK:** Right. And so she
25 figured I was -- because I was going back to
26 Pat, and she wrote that. And I didn't even know
27 she had wrote it until right now.

1 **PRESIDING COMMISSIONER PEREZ:** Do you still
2 keep in touch with her?

3 **INMATE MCCORMICK:** I haven't heard from her
4 since May.

5 **PRESIDING COMMISSIONER PEREZ:** Okay. And
6 there is no -- I couldn't find a date -- well,
7 it was received in April of 2005. So that's
8 fairly recent. When was the last time you had
9 contact with her?

10 **INMATE MCCORMICK:** Like I said, May.

11 **PRESIDING COMMISSIONER PEREZ:** May.

12 **INMATE MCCORMICK:** And I got a certified
13 letter from her telling me she had sent the
14 letter to the Board.

15 **PRESIDING COMMISSIONER PEREZ:** Okay. Is it
16 your plan to live with your ex-wife and
17 essentially be married to her, Patricia
18 McCormick?

19 **INMATE MCCORMICK:** After I come out from
20 the program from Allied.

21 **PRESIDING COMMISSIONER PEREZ:** Okay. And I
22 do note for the record that it appears that your
23 plan is to go into the Allied Fellowship
24 Program, which is an alcohol residential
25 treatment program. Is that correct, sir?

26 **INMATE MCCORMICK:** Uh-huh.

27 **PRESIDING COMMISSIONER PEREZ:** You're going

1 in there as a patient?

2 **INMATE MCCORMICK:** No. Pardon?

3 **PRESIDING COMMISSIONER PEREZ:** As what?

4 What is going to be your role within this
5 facility?

6 **INMATE MCCORMICK:** It's job training, you
7 know, is what it does.

8 **PRESIDING COMMISSIONER PEREZ:** Okay. So
9 you're going into a residential treatment
10 program?

11 **INMATE MCCORMICK:** Right.

12 **PRESIDING COMMISSIONER PEREZ:** For the
13 purposes of gaining job skills?

14 **INMATE MCCORMICK:** That and making sure I
15 don't substance abuse.

16 **PRESIDING COMMISSIONER PEREZ:** Okay.

17 **INMATE MCCORMICK:** Yeah.

18 **PRESIDING COMMISSIONER PEREZ:** Because I --
19 in the record there is information, which
20 indicates that you've previously used marijuana,
21 not on a regular basis, but there is no
22 indication that you have a history of drug use.

23 **INMATE MCCORMICK:** No, I don't.

24 **PRESIDING COMMISSIONER PEREZ:** Is that
25 correct?

26 **INMATE MCCORMICK:** Correct.

27 **PRESIDING COMMISSIONER PEREZ:** But you're

1 afraid that you might.

2 **INMATE MCCORMICK:** No. Just to make sure
3 that I don't go back to drinking alcohol and
4 stuff again.

5 **PRESIDING COMMISSIONER PEREZ:** Do you have
6 a history of using alcohol to excess?

7 **INMATE MCCORMICK:** No, not excess, but I
8 just want to stay away from it.

9 **PRESIDING COMMISSIONER PEREZ:** You just
10 don't want any substances, legal or not?

11 **INMATE MCCORMICK:** None. None.

12 **PRESIDING COMMISSIONER PEREZ:** Okay. And
13 the program also provides you with job training?

14 **INMATE MCCORMICK:** Right.

15 **PRESIDING COMMISSIONER PEREZ:** And what --
16 is there a particular field you're looking at
17 going into in?

18 **INMATE MCCORMICK:** More or less, probably
19 forklift operator.

20 **PRESIDING COMMISSIONER PEREZ:** Forklift
21 operation?

22 **INMATE MCCORMICK:** Uh-huh.

23 **PRESIDING COMMISSIONER PEREZ:** I do note
24 for the record that we have a letter dated
25 February 8th, 2004 -- 5 from the Allied
26 Fellowship Service, Mr. Harold Matthews, who is
27 the program manager. This program is out of

1 Oakland. Is that right, sir?

2 **INMATE MCCORMICK:** Right.

3 **PRESIDING COMMISSIONER PEREZ:** And in the
4 record he states.

5 Allied Fellowship Services is a
6 State of California certified
7 residential alcohol and drug
8 program located in Oakland. AFS a
9 contracted with the California
10 Department of Corrections to
11 receive men and women released from
12 the California prisons. For over
13 40 years AFS has been receiving
14 parolees and has successfully
15 reduced the rate of recidivism
16 among its clients, mainly because
17 of its intense treatment and
18 reintegration services. Allied
19 Fellowship Service is extending
20 service to Mr. Frank McCormick upon
21 release from the California
22 Department of Corrections.
23 Services will include housing,
24 relapse prevention, individual and
25 group counseling, community and
26 family reintegration skills,
27 employment training, and placement

1 and more.

2 Let me ask you this question, sir.

3 **INMATE MCCORMICK:** Uh-huh.

4 **PRESIDING COMMISSIONER PEREZ:** What is your
5 primary motivation for going into this program
6 upon your release to parole, as opposed to
7 living with your ex-wife?

8 **INMATE MCCORMICK:** Well, I've been down for
9 22 years.

10 **PRESIDING COMMISSIONER PEREZ:** Uh-huh.

11 **INMATE MCCORMICK:** Things have changed. I
12 need to catch up on what's happened out there
13 before I just go out there, you know.

14 **PRESIDING COMMISSIONER PEREZ:** Uh-huh.

15 **INMATE MCCORMICK:** So that's how I feel
16 about it.

17 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
18 good, sir. So how long would you remain within
19 this program, do you think?

20 **INMATE MCCORMICK:** Six-month program.

21 **PRESIDING COMMISSIONER PEREZ:** Oh. It's a
22 six-month program?

23 **INMATE MCCORMICK:** Right.

24 **PRESIDING COMMISSIONER PEREZ:** Are you able
25 the extend your time there?

26 **INMATE MCCORMICK:** Probably could.

27 **PRESIDING COMMISSIONER PEREZ:** Probably

1 could.

2 **INMATE MCCORMICK:** Yeah.

3 **PRESIDING COMMISSIONER PEREZ:** And after
4 that, if things work out, move in with your ex-
5 wife?

6 **INMATE MCCORMICK:** Yeah, I go home.

7 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
8 good. How many children do you have with your
9 ex-wife?

10 **INMATE MCCORMICK:** I have three with her.

11 **PRESIDING COMMISSIONER PEREZ:** Three with
12 her.

13 **INMATE MCCORMICK:** Uh-huh.

14 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
15 good. In terms of employment, as you've
16 indicated, it's your plan to go into this
17 program and gain some skills in the area of
18 forklift driving, but I also notice that you
19 also have some skills that you've obtained since
20 you've incarcerated that Commissioner Nielsen
21 will discuss with you later that you would be
22 able to use upon your release to parole. In
23 terms of letters of support, sir, you've
24 provided some letters to support to us. One has
25 already been read into the record from the
26 Allied Fellowship Service, which is the
27 residential treatment program, which we

1 discussed earlier. We also have a letter dated
2 April 18th, 2005, from your ex-wife Patricia
3 McCormick, who is the individual who you would
4 move into after completing this particular
5 program?

6 **INMATE MCCORMICK:** Yes.

7 **PRESIDING COMMISSIONER PEREZ:** She
8 indicates she's known you for over 40 years and
9 was married to you twice, and that you have
10 three grown children together. She further
11 states that it is your plan -- you and her plan
12 to marry again. She further states, I think
13 what she meant to say is, I have seen a great
14 change in Frank over the years. "He's
15 remorseful and understands the nature of his
16 crime. I'm offering him a place to live,
17 transportation, and financial help, and whatever
18 else I need to get his -- himself together. I
19 am going to give him the friends he needs to get
20 himself."

21 **INMATE MCCORMICK:** It's funds.

22 **PRESIDING COMMISSIONER PEREZ:** Funds,
23 excuse me, sorry. "The funds that he needs to
24 get his business started. I know that he will
25 do good and there is a lot of support for him."
26 What kind of business, sir?

27 **INMATE MCCORMICK:** Dry cleaning, more than

1 likely.

2 **PRESIDING COMMISSIONER PEREZ:** Dry
3 cleaning. I do note that you have completed
4 vocational dry cleaning.

5 **INMATE MCCORMICK:** Right.

6 **PRESIDING COMMISSIONER PEREZ:** In the
7 institution. Is that correct, sir?

8 **INMATE MCCORMICK:** Right.

9 **PRESIDING COMMISSIONER PEREZ:** We have
10 another letter, this one is from Tina M. Davis.
11 There's no date on this letter. This letter is
12 not signed. When was this letter received, sir?

13 **INMATE MCCORMICK:** I just got it two weeks
14 ago.

15 **PRESIDING COMMISSIONER PEREZ:** Two weeks
16 ago?

17 **INMATE MCCORMICK:** Where's the envelope.

18 **PRESIDING COMMISSIONER PEREZ:** And what's
19 that dated, sir?

20 **INMATE MCCORMICK:** 11th of October.

21 **PRESIDING COMMISSIONER PEREZ:** 11th of
22 October. And she lives in Chino. Is that
23 right, sir?

24 **INMATE MCCORMICK:** Right.

25 **PRESIDING COMMISSIONER PEREZ:** And who is
26 Ms. Davis?

27 **INMATE MCCORMICK:** That's a friend of my

1 daughters. She grew up with them.

2 **PRESIDING COMMISSIONER PEREZ:** She writes
3 to the Board and she indicates.

4 I'm writing to you today to
5 hopefully in any kind of way be
6 heard in the decision of allowing
7 Mr. McCormick the opportunity to
8 come home to family that has been
9 his support system since his
10 unfortunate incarceration. Mr.
11 McCormick was like a father figure
12 to me while I grew up with two of
13 his daughters. Being a child
14 raised with no father in the home,
15 he became the closest thing to
16 that.

17 Unfortunately, when he became incarcerated,
18 I suffered the loss along with his daughters
19 Moniqa (phonetic).

20 **INMATE MCCORMICK:** Moniqa.

21 **PRESIDING COMMISSIONER PEREZ:** Moniqa and
22 Fonta (phonetic).

23 **INMATE MCCORMICK:** Right.

24 **PRESIDING COMMISSIONER PEREZ:** "We have all
25 grown since then and have remained to be best
26 friends and are now experiencing parenting of
27 our own." She further states that you are

1 missed very much and you have a very strong
2 support system, as well as a wife that loves
3 you. She further states that she strongly
4 believes that you have paid dearly for the crime
5 and you've missed out on much since your
6 incarceration. "We know that if he could be
7 given the opportunity to come home to his
8 family, you will be to rest assured that you
9 will never have to see Mr. McCormick under the
10 same circumstances that we are before -- that
11 are before you now." Okay. Then we have
12 another letter dated October 11th, 2005, and
13 this is from your daughter Fonta McCormick,
14 right, sir?

15 **INMATE MCCORMICK:** Right.

16 **PRESIDING COMMISSIONER PEREZ:** In her
17 letter she conveys her support for you and
18 indicates that she feels that you are very
19 remorseful for the crime that you've committed.
20 She further states that she believes it is time
21 for you to come home. And she further states
22 that if for any reason the family of the victim
23 is concerned for their safety, "I can assure
24 you, and so can my father, that there is no
25 reason for them to fear because no retaliation
26 will be taken." Any idea why she would make
27 that particular statement, sir?

1 **INMATE MCCORMICK:** Yeah, she asked why she
2 denied me last year, and I sent them a copy of
3 the letter.

4 **PRESIDING COMMISSIONER PEREZ:** Okay. And
5 what letter was that, sir?

6 **INMATE MCCORMICK:** The one from the Seaside
7 Police Department.

8 **PRESIDING COMMISSIONER PEREZ:** The Seaside
9 Police Department. Okay. I see.

10 Just think about it. Why would he
11 fight so hard to get free just to
12 track someone down to cause him
13 harm or risk of getting the freedom
14 taking away again. It's not in his
15 character. He has reason to be
16 free and to live. I have a place
17 in Reno, Nevada. If you all decide
18 to release him this time that he
19 can stay in a positive surrounding.

20 And what does your daughter do, sir?

21 **INMATE MCCORMICK:** She's a medical biller.

22 **PRESIDING COMMISSIONER PEREZ:** Medical
23 biller. Okay. Very good. And how old is she?

24 **INMATE MCCORMICK:** She's 27 now.

25 **PRESIDING COMMISSIONER PEREZ:** 27. She
26 live alone?

27 **INMATE MCCORMICK:** Her and her son.

1 **PRESIDING COMMISSIONER PEREZ:** How old is
2 her son?

3 **INMATE MCCORMICK:** He'll be two in
4 February.

5 **PRESIDING COMMISSIONER PEREZ:** How long has
6 she lived in Reno?

7 **INMATE MCCORMICK:** She's been up there
8 about nine months now.

9 **PRESIDING COMMISSIONER PEREZ:** Nine months.
10 Okay. She moved there from California?

11 **INMATE MCCORMICK:** Yeah.

12 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
13 good, sir. Would you like me to read into the
14 record the letter from the lady that indicates
15 she's your fiancé, and that you can live with
16 her upon your release to parole?

17 **INMATE MCCORMICK:** If you want to, you can.
18 I haven't seen it.

19 **PRESIDING COMMISSIONER PEREZ:** Is that a
20 legitimate letter to read into the record? If
21 not, I will not read it into the record.

22 **INMATE MCCORMICK:** No, it's not.

23 **PRESIDING COMMISSIONER PEREZ:** Okay. I
24 will not read it into the record. Okay. Are
25 there any other letters of support, offers of
26 employment, offers of residence that I've not
27 read into the record, sir?

1 **INMATE MCCORMICK:** Well, we got this thing
2 from PIA where I work at that -- it should be a
3 chrono attached to it in there from Charlie
4 Walker as to the job things that PIA does. The
5 main warehouse is in Sacramento.

6 **PRESIDING COMMISSIONER PEREZ:** Is it a
7 specific offer for employment?

8 **INMATE MCCORMICK:** Yeah, well, they got
9 people -- to place us through the different
10 programs to give us -- here's the chrono.

11 **PRESIDING COMMISSIONER PEREZ:** Okay. It's
12 probably in your file.

13 **INMATE MCCORMICK:** Yeah, it should be.

14 **PRESIDING COMMISSIONER PEREZ:** Okay.

15 **INMATE MCCORMICK:** The IOP program. It
16 just tells what's it's all about.

17 **PRESIDING COMMISSIONER PEREZ:** This chrono
18 indicates that Inmate McCormick has successfully
19 completed the third phase of our inmate
20 employable program. It further states that you
21 have now received instructions on job searching
22 while incarcerated, interview tips, networking
23 to find employment, and accessing community
24 resources related to finding employment.

25 With employment being a
26 prerequisite to parole, it is
27 paramount for ex-offenders to have

1 the ability to effectively access
2 employment recourses. With the
3 completion of this phase of our
4 program, Inmate McCormick's chance
5 of finding gainful employment upon
6 release is excellent. He is
7 commended for his diligence and
8 participation in our employment
9 employability program.

10 And that particular chrono -- it's a
11 laudatory chrono. It's dated September 9th,
12 2005. Authored by the superintendent in PIA --
13 it's the superintendent to IEP coordinator
14 Charlie D. Walker, W-A-L-K-E-R. Okay.

15 **INMATE MCCORMICK:** Yeah.

16 **PRESIDING COMMISSIONER PEREZ:** Anything
17 else in regards to your parole plans?

18 **INMATE MCCORMICK:** That's about it.

19 **ATTORNEY FOX:** He's also given me two
20 papers that describe pretty much in depth what
21 the inmate employment program is.

22 **PRESIDING COMMISSIONER PEREZ:** Okay. And
23 we'll look those over and consider those during
24 our deliberations. Okay. Very good. Sir,
25 pursuant to Penal Code Section 3042 notices were
26 sent to agencies that might have a direct
27 interest in your case or that would have a

1 direct interest in your case, such as the Public
2 Defender's Office, in the event that you were
3 represented by the public defenders, the
4 District Attorney's office, law enforcement, and
5 the Superior Court, and we do note for the
6 record that we did receive one letter, but we're
7 not going to enter it into the record or
8 consider it, in that it was received late.
9 Okay.

10 **INMATE MCCORMICK:** Okay.

11 **ATTORNEY FOX:** I do have a few other
12 documents.

13 **PRESIDING COMMISSIONER PEREZ:** Are they
14 employment offers or offers of residence?
15 That's specifically what I'm looking for.

16 **INMATE MCCORMICK:** Well, this tells what
17 the program does about finding us jobs. They
18 got agents in place to find jobs once we get
19 out.

20 **ATTORNEY FOX:** What Mr. McCormick has done
21 is taken the initiative to put together a job
22 search, and I think it would be worthy of
23 consideration.

24 **PRESIDING COMMISSIONER PEREZ:** Okay. We'll
25 certainly consider that.

26 **ATTORNEY FOX:** And also what he talked
27 about from PIA September 9th.

1 **PRESIDING COMMISSIONER PEREZ:** We'll
2 certainly consider those documents. Okay.

3 **ATTORNEY FOX:** And he did do the
4 significant effort to compile that.

5 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
6 good. We'll look at that. Anything else
7 regarding employment or residence?

8 **INMATE MCCORMICK:** No. That's it.

9 **PRESIDING COMMISSIONER PEREZ:** At this time
10 Commissioner Nielsen will discuss with you
11 everything you've done since your last hearing.

12 **DEPUTY COMMISSIONER NIELSEN:** All right,
13 sir, the disciplinaries. You had a few but sort
14 of cleaned your up act up in the late '90s,
15 115s, disobeying an order, threatening staff --

16 **DEPUTY COMMISSIONER NIELSEN:** We're on Side
17 Two now. You said that staff was what now, sir?

18 **INMATE MCCORMICK:** The 115 was reduced to
19 disrespect towards staff.

20 **DEPUTY COMMISSIONER NIELSEN:** Okay. And we
21 don't have any confirmation of that. All we
22 have a summary sheet. The C file does not
23 contain the individual disciplinaries, which is
24 the norm, but I have no necessary reason to
25 dispute you. Another performance one, a failure
26 to report, altercation, and I think it meant
27 alteration, not altercation. You wouldn't be

1 having an altercation with a court document, I
2 gather, and that was '95, and '98 was your most
3 recent, and that was grooming standards. You
4 accrued seven 128s. Most recent being '99 for
5 disrespect of staff, one was grand-mothering,
6 failure to report, failure to complete job
7 assignment, refusing to report, out of bounds,
8 and unauthorized absence. Any particular thing
9 you or your counsel would like the observe
10 related to the disciplinaries beyond your
11 clarification that you just offered, sir?

12 **INMATE MCCORMICK:** No.

13 **DEPUTY COMMISSIONER NIELSEN:** Okay. I do
14 have information in the Central File about the
15 employment employability -- Inmate Employability
16 Program. You had completed anger management in
17 '02, dating from 1995, fairly steadily. I see
18 chronos from '98, '99, '01, '02, '03, 04, '05.
19 You have engaged NA. You did a four-hour video,
20 or review date four-hour video, re-engaging in
21 society. In '96 you did coach for kids,
22 participated in that form of making amends to
23 society. In '96 you worked for Friends Outside,
24 and they are the support group for families of
25 inmates. In '95 you did a life skills workshop
26 -- or excuse me, life skills course with Dr.
27 Bakemen. You did children walk-a-thon in '95.

1 You were MAC president in '95. That's a
2 leadership role. Anger management, I think I
3 mentioned. You have a positive chrono from Bill
4 Bertain (phonetic) in '98. You have completed
5 many modules and, in fact, a complete vocational
6 dry cleaning program. I saw many certificates
7 in there, including a air resources board
8 certificate. You have certificates for
9 vocational small engine and did an executive
10 business administration course in 1996.
11 Recently, in the chrono you submitted here,
12 Inmate Employability Program and you did offer
13 some more information about the Inmate
14 Employability Program for us to consider today.
15 You have a series of chronos through '01, hand
16 router training, sander and assembly, free --
17 fire safety, power tools, also took a typing
18 test.

19 **INMATE MCCORMICK:** Yeah.

20 **DEPUTY COMMISSIONER NIELSEN:** And your work
21 record in furniture has been above average to
22 exceptional throughout, so you have a lot of
23 talent in furniture assembly and can be
24 gainfully employed therein. And that seems to
25 pretty well summarize things. Did I miss
26 anything, sir?

27 **INMATE MCCORMICK:** I don't know if this one

1 made it to the file or not. I just got it the
2 other day.

3 **DEPUTY COMMISSIONER NIELSEN:** Let me see
4 what it is.

5 **ATTORNEY FOX:** It's a work experience
6 evaluation.

7 **DEPUTY COMMISSIONER NIELSEN:** Okay. As
8 furniture assembler, edge sander, ladder, power
9 tools. You're rated number one skill rating,
10 you're rated number one as a furniture
11 assembler. That would certainly corroborate
12 with the other reports that I've read into the
13 record already, in terms of punctuality, ability
14 to work with others, to take directions, accept
15 criticism, reliability, willingness to learn and
16 an ability to learn new tasks. Overall attitude
17 towards job, excellent. You continue to be a
18 very good worker who needs little supervision
19 and he gets well along with staff and will other
20 inmates. He completes his assigned task in a
21 timely manner. That would be your work
22 superintendent Walker. Very good.

23 **ATTORNEY FOX:** Thank you.

24 **INMATE MCCORMICK:** He forgot about these
25 too.

26 **ATTORNEY FOX:** What are these?

27 **INMATE MCCORMICK:** FEMA

1 **DEPUTY COMMISSIONER NIELSEN:** Anything else
2 then you would like to?

3 **ATTORNEY FOX:** Yes. And I'm sorry I didn't
4 give these to you earlier.

5 **INMATE MCCORMICK:** I got one in there, and
6 I got five of them in there. They stopped them
7 --

8 **DEPUTY COMMISSIONER NIELSEN:** These are
9 FEMA reports?

10 **ATTORNEY FOX:** Right.

11 **INMATE MCCORMICK:** Right.

12 **DEPUTY COMMISSIONER NIELSEN:** Yeah, they
13 look FEMA. Yeah, there's a whole series of
14 Federal Emergency Management Institute
15 certificates, animals in disaster, awareness and
16 preparedness, leadership and influence,
17 effective communication and emergency
18 preparedness, and that is series it looks you
19 took in 2004, sir?

20 **INMATE MCCORMICK:** Uh-huh.

21 **DEPUTY COMMISSIONER NIELSEN:** Okay. I got
22 those now recorded as well.

23 **ATTORNEY FOX:** Thank you.

24 **DEPUTY COMMISSIONER NIELSEN:** Also good
25 accomplishments. Anything you'd like to add
26 before we go to the psych reports?

27 **INMATE MCCORMICK:** That's it.

1 **ATTORNEY FOX:** Thank you.

2 **DEPUTY COMMISSIONER NIELSEN:** All right.

3 The most recent Dr. Gamard, if released to
4 community, violence potential estimated to be no
5 higher than the average citizen in the
6 community. Inmate is competent and responsible
7 for his behavior and has the capacity to abide
8 by institutional standards, and generally has
9 done so during incarceration. No mental
10 disorder which would necessitate treatment,
11 either in or out of custody. No recommendations
12 for alcohol problems, but is recommended you
13 continue to go to NA meetings. There is an
14 indication that you showed good insight to your
15 commitment offense in your discussions with the
16 writer. This is a discussion of the crime, and
17 we'll talk about that a little bit later, and
18 nothing particular further remarkable. Earlier
19 reports are similar and earlier recommendations.
20 Just continue that you would attend AA, complete
21 voc training in dry cleaning and you did that,
22 so that's about all we have. Anything you'd
23 like to additionally add or observe related to
24 Dr. Gamard's report?

25 **INMATE MCCORMICK:** No.

26 **DEPUTY COMMISSIONER NIELSEN:** Thank you. I
27 will return to the Chair.

1 **PRESIDING COMMISSIONER PEREZ:** Okay. Thank
2 you. At this time I'd like to give counsel the
3 opportunity to ask questions.

4 **ATTORNEY FOX:** No, no questions, thank you.

5 **PRESIDING COMMISSIONER PEREZ:** Any
6 questions from the Commissioner before I ask
7 counsel for her closing statement?

8 **DEPUTY COMMISSIONER NIELSEN:** No, that's
9 okay.

10 **COMMISSIONER BRYSON:** No, none thanks.

11 **PRESIDING COMMISSIONER PEREZ:** Counsel.

12 **ATTORNEY FOX:** Thank you. Yes. Mr.
13 McCormick would have you find him suitable today
14 and ask that you set the term for his release.
15 Turning first of all to the crime of commitment,
16 Mr. McCormick has expressed sincere remorse
17 consistently, and what he says is the truth of
18 what happened that evening. It was a mistake
19 that he is regretting and will regret for the
20 rest of his life. He's fully discussed the
21 possession of the weapon and the thoughts going
22 through his head at that time. Turning to his
23 institutional adjustment, Mr. McCormick has done
24 very well. After a period of adjustment with
25 the 115s and the 128(a)s, he's been totally
26 disciplinary free since 1999, and that was the
27 date of the last 128. Although, technically not

1 a disciplinary, it's a counseling chrono.
2 Counterpoint to that, are all the laudatory
3 chronos for work, for giving back to his
4 community here, he's just done a remarkable job
5 trying to do -- make the best of his life such
6 as he can as he sits here. Turning to the
7 parole plans, he's got wonderful parole plans,
8 and although we did discuss the espoused fears
9 from the Seaside Police Department regarding
10 that investigation, they're fears could be
11 assuaged by looking at the parole plans in
12 Sacramento, which is far from Monterey. So I
13 don't believe that any credence at all should be
14 given to those statements from that particular
15 police department. Also regarding the parole
16 plans, Mr. McCormick is unique, in that he's
17 arranged for transition natural housing, and
18 this further buttressing the realistic aspect of
19 his plans. This is a man who would get out and
20 who will not fail. He knows the resources he
21 can access in the event he's having troubles and
22 can dissipate any of those ill feelings. Also,
23 to supplement whatever earnings he'd have on the
24 outside, having served for a couple of years in
25 the military, he's be entitled to veteran's
26 benefits, so that's something that could be
27 considered as well. So that having been said,

1 I'll submit, unless there's anything that Mr.
2 McCormick would like to add.

3 **PRESIDING COMMISSIONER PEREZ:** Mr.
4 McCormick, before I ask you for your closing
5 statement, your ex-wife, she lives in
6 Sacramento?

7 **INMATE MCCORMICK:** Right.

8 **PRESIDING COMMISSIONER PEREZ:** Okay. And
9 looking at the Allied Fellowship Service at the
10 bottom, I'm not sure if the program is in
11 Oakland or Martinez.

12 **INMATE MCCORMICK:** It's in Oakland.

13 **PRESIDING COMMISSIONER PEREZ:** It's in
14 Oakland.

15 **INMATE MCCORMICK:** Yes.

16 **PRESIDING COMMISSIONER PEREZ:** So the
17 program you'd be going to is in Oakland?

18 **INMATE MCCORMICK:** Right.

19 **PRESIDING COMMISSIONER PEREZ:** Okay. Very
20 good. Sir, at this time we'd like to provide
21 you the opportunity to make a statement as to
22 why you feel you are suitable parole.

23 **INMATE MCCORMICK:** Well, I guess I've done
24 22 years. I've pretty much, you know, I was a
25 idiot when I first came in. I'm not going to
26 lie about it. I got into some things I
27 shouldn't of gone into, and I have a habit of

1 speaking what's on my mind, hence the last one -
2 - 128 that I received. But all in all, I know
3 what I did was wrong, and there's no way that I
4 can change that. If I could, I certainly would.
5 And thinking about it afterwards, there's a
6 whole lot of things I could of done differently,
7 but at that time, I did what I did, and I accept
8 full responsibility. Now as far as me -- why I
9 should get out, now I got photo albums full of
10 reasons why, but most of all, I've earned it.
11 I've done my time, and I need to get out there,
12 be with my family. That's about it.

13 **PRESIDING COMMISSIONER PEREZ:** Okay. Thank
14 you, sir. We will now recess for deliberations.
15 The time is 5:10 p.m.

16 **R E C E S S**

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1 **CALIFORNIA BOARD OF PAROLE HEARINGS**

2 **D E C I S I O N**

3 **PRESIDING COMMISSIONER PEREZ:** We have
4 received all the information received from the
5 public and relied on the following circumstances
6 in concluding that you are not suitable for
7 parole and that would pose an unreasonable risk
8 of danger to society or a threat to public
9 safety if released from prison at this time.
10 Sir, let me back up for just one moment and just
11 let me know that we are going to deny you for
12 one year.

13 **INMATE MCCORMICK:** Uh-huh.

14 **PRESIDING COMMISSIONER PEREZ:** The main
15 factor, or one of the main factors, is the
16 gravity of the offense, in that after reviewing
17 the facts of this crime, it is the opinion of
18 this Panel that the offense was carried out in a
19 especially cruel and callous manner, in that the
20 unarmed victim was shot at close range at torso
21 piercing his aorta resulting in his almost
22 immediate demise, and that according to the
23 autopsy, he died within minutes of having been
24 shot. In addition, sir, the motive for this
25 crime was very trivial in relationship to the
26 offense, in that it appears to have been

1 committed as a result of a argument between
2 other individuals that really didn't involve
3 you. Furthermore, sir, this particular crime
4 created the potential for additional victims, in
5 that there was another individual in the vehicle
6 at the time of the offense. Sir, these
7 conclusions are drawn from the statement of
8 facts, wherein according to the record, the
9 murder victim was killed in the parking lot of
10 the Seaside Club on August 8th, 1983, at
11 approximately 11:00 p.m. The cause of death was
12 a gunshot wound to the heart. An investigation
13 led police to information indicating that
14 yourself and Alfred Johnson Jr. went to the
15 Seaside parking lot. Johnson approached the
16 passenger side of the auto occupied by Stephen
17 Edwards and Alvin Brooks. McCormick approached
18 the driver's side and a verbal dispute erupted
19 between Johnson and Edwards. McCormick pulled
20 out a handgun, which he pointed at Brooks. The
21 dispute between Edwards and Johnson grew heated,
22 a shot was fired and Edwards was struck when the
23 bullet from the -- from McCormick's weapon.
24 McCormick and Johnson fled the scene in an auto
25 later traced to McCormick's residence.
26 Furthermore, sir, the record does not reflect
27 **FRANK MCCORMICK C-78307 DECISION PAGE 2 11/14/05**

1 that at the time of the offense that you did
2 anything to aide this particular victim. The
3 other factor that we looked at is denying you
4 for one year, sir, is that at the time you
5 committed the offense you were approximately 31
6 years of age and you had a very minimal criminal
7 history, in that you only had, according to the
8 rap sheet, a misdemeanor conviction for
9 disturbing the peace. There is nothing in the
10 record to substantiate that you've previously
11 been convicted of gambling. Furthermore, we do
12 note that at the time you committed the offense
13 you were on active duty. Is that correct, sir?
14 Active duty in the U.S. Army? We took into
15 consideration as well the latest psychological
16 report, sir, that is favorable. This particular
17 report is authored by staff psychologist William
18 Gamard, G-A-M-A-R-D, dated August 29th, 2003, in
19 which the psychologist indicates that if
20 released to the community he believes that your
21 violence potential is estimated to be no higher
22 than the average citizen in the community. In
23 terms of your parole plans, sir, I do note for
24 the record that you have very good parole plans.
25 There is no requirement that you parole to your
26 county of last legal residence, and quite

1 frankly, you can parole somewhere else and you
2 think there is a better opportunity for you to
3 do better in a different community, we certainly
4 would encourage it. And we do note for the
5 record that it is your plan to parole into a
6 residential treatment program. We do have a
7 letter verifying that, to the effect, in the
8 Oakland area, and then it is your plan to live
9 with your ex-wife in the Sacramento area after
10 completing this six-month program. In addition,
11 although there's not a specific job offer, we do
12 note for the record that you have a number of
13 marketable skills that you would be able to
14 utilize upon your release to parole,
15 specifically in the area of dry cleaning, small
16 business machines, as well as a furniture
17 assembler. Further, we do note for the record
18 that you've provided to this Panel today, sir,
19 information which indicates that you have been
20 very active in trying to obtain information
21 regarding employment resources that would assist
22 you in obtaining employment upon your release to
23 parole, and that's very commendable, sir. Sir,
24 the other factor that we did take into
25 consideration is the fact that between 1984 and
26 1998 you have incurred some 115s, and you've not
27 **FRANK MCCORMICK C-78307 DECISION PAGE 4 11/14/05**

1 incurred any 115s since that time period. You
2 did incur a 128 in 1999, but we don't weigh that
3 in making our decision. We take into
4 consideration the 115s and it is the opinion of
5 this Panel, sir, that you must be able to
6 demonstrate that you can go a longer period of
7 time with no 115s before you can be found
8 suitable for parole, in that from 1984 to 1998
9 you were incurring 115s. That's a 15-year
10 period, and you've now gone six years without
11 any 115s. Again, you must be able to
12 demonstrate to the Panel that you can go an
13 extended period of time without receiving any
14 115s, and that's the reason we gave you the one-
15 year denial as opposed to a denial that's any
16 longer than that. Furthermore, sir, we would
17 like to commend you for not having received any
18 115s since 1998, and also for the Inmate
19 Employability Program laudatory chrono that you
20 received this year, as well as other laudatory
21 chrono in your file, as well as for completing a
22 variety of FEMA courses, and for your
23 participation in AA. However, these positive
24 aspects of your behavior do not outweigh your
25 factors of unsuitability, and as a result we're
26 going to deny you for one year. Sir, your most
27 **FRANK MCCORMICK C-78307 DECISION PAGE 5 11/14/05**

1 psychological report is favorable. However,
2 when you come before the Board the next time
3 around, I would venture to say that if you
4 continue doing what you've been doing, in terms
5 of your program, you'll probably receive another
6 favorable psychological report, so the Panel
7 will have not only a recent one but a 2003
8 positive psychological report to consider during
9 your next consideration hearing, so as a result,
10 we're going to ask for another psychological
11 evaluation. We're going to ask the psychologist
12 to, again, determine your violence potential in
13 the free community, as well as the significance
14 of alcohol as it relates to your commitment
15 offense and your ability to refrain from using
16 that substance because, most likely than not, if
17 you are found suitable for parole, what will
18 happen is the Panel will probably give you a
19 condition that you cannot use alcohol since you
20 had been using alcohol at the time of the
21 offense, and also to explore to what extent
22 you've come to terms with the underlying cause
23 of the commitment offense. Again, that will be
24 an opportunity for you to make another favorable
25 impression on another psychologist and have two
26 psychological reports that are favorable when
27 **FRANK MCCORMICK C-78307 DECISION PAGE 6 11/14/05**

1 you come before the Board the next time around.
2 In the meantime, sir, we recommend that you
3 continue with your programming, in that you
4 continue remaining disciplinary free. Please do
5 not get any more 115s or 128s. That's what's
6 going to set you back, and I'm sure you are
7 aware of that. Those 115s set you back because
8 the thought is that if you can't follow the
9 rules within the institutions, that you're not
10 going to follow them in the community.
11 Absolutely do not receive any more 115, and if
12 there any self-help or therapy programs
13 available in the institutions, take advantage of
14 them, and complete them as well. Okay.

15 **INMATE MCCORMICK:** Yes, ma'am.

16 **PRESIDING COMMISSIONER PEREZ:** Sir, we do
17 wish you the best of luck. This concludes this
18 hearing. The time is 5:40 p.m. Good luck, sir.

19 **INMATE MCCORMICK:** All right.

20 **ATTORNEY FOX:** Thank you.

21 **--oOo--**

22

23 **PAROLE DENIED ONE YEAR**

24 **THIS DECISION WILL BE FINAL ON: Mar. 14, 2006**

25 **YOU WILL BE PROMPTLY NOTIFIED, IF PRIOR TO THAT**
26 **DATE, THE DECISION IS MODIFIED.**

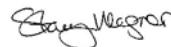
27 **FRANK MCCORMICK C-78307 DECISION PAGE 7 11/14/05**

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, STACY WEGNER, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 71, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF FRANK MCCORMICK, CDC NO. C-78307, ON NOVEMBER 14, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated November 28, 2005, at Sacramento,
California.



STACY WEGNER
TRANSCRIBER
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